

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

v.

NO. 4:05-CR-00045-GHD-JMV

NASIR ABDUL-ALI

DEFENDANT

ORDER DENYING WITHOUT PREJUDICE DEFENDANT'S MOTION FOR LEAVE
TO APPEAL *IN FORMA PAUPERIS*

Presently before the Court is the Defendant's motion for leave to appeal *in forma pauperis* [179], stating that he wishes to appeal this Court's ruling on his motion to reduce sentence under the First Step Act [177] and that he is unable to pay the filing fee for such an appeal.¹ Upon due consideration, the Court at this juncture denies without prejudice the Defendant's motion for the reasons set forth herein; the Defendant may refile the motion if he complies with 28 U.S.C. § 1915(a)'s requirements.

"28 U.S.C. § 1915(a) authorizes a court to allow an appeal of any suit, civil or criminal, 'without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor.' " *Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982) (*quoting* 28 U.S.C. § 1915(a)(1)). In addition, 28 U.S.C. § 1915(a)(2) requires that a prisoner seeking to appeal without prepayment of fees must submit, in addition to the required affidavit noted above, "a certified copy of the trust fund account statement for the prisoner for the 6-month period immediately preceding the . . . notice of appeal . . ."

¹ On August 21, 2019, the Court granted the Defendant's motion to reduce his sentence under the First Step Act, and reduced the Defendant's sentence from life imprisonment to 480 months [177].

The Defendant has filed the present motion seeking to appeal *in forma pauperis* [179] the Court's ruling [177] regarding the Defendant's motion to reduce his sentence pursuant to the First Step Act, and that he is unable to pay the filing fee for the appeal. The Defendant, however, has not submitted to the Court a certified copy of his inmate trust fund account statement, which is required by 28 U.S.C. § 1915(a)(2). Accordingly, the Court at this juncture denies the present motion without prejudice; the Defendant may refile this motion if he complies with 28 U.S.C. § 1915(a)'s requirements.

Accordingly, the Court hereby ORDERS that the Defendant Nasir Abdul-Ali's motion for leave to appeal *in forma pauperis* [179] is DENIED WITHOUT PREJUDICE.

SO ORDERED, this, the 22nd day of April, 2020.



SENIOR U.S. DISTRICT JUDGE